



GREENBLUM & BERNSTEIN, P.L.C.
Intellectual Property Causes
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191

Attorney Docket No. P23971

In re application of: Hiroyuki KOBAYASHI

Application No. : 10/693,883

Filed : October 28, 2003

For : ELECTRONIC ENDOSCOPE APPARATUS

Mail Stop Amendment

Group Art Unit : 3739

Examiner : Philip R. Smith

Mail Stop Amendment

Commissioner for Patents

U.S. Patent and Trademark Office

Customer Service Window, Mail Stop Amendment

Randolph Building

401 Dulany Street

Alexandria, VA 22314

Sir:

Transmitted herewith is an **Response to Election Requirement with Traverse** in the above-captioned application.

- ☐ Small Entity Status of this application under 37 C.F.R. 1.9 and 1.27 has been established by a previously filed statement.
- ☐ A verified statement to establish small entity status under 37 C.F.R. 1.9 and 1.27 is enclosed.
- ☐ A Request for Extension of Time.
- ☒ No additional fee is required.

The fee has been calculated as shown below:

Claims After Amendment	No. Claims Previously Paid For	Present Extra	Small Entity		Other Than A Small Entity	
			Rate	Fee	Rate	Fee
Total Claims: 15	*20	0	x25=	\$	x 50=	\$0.00
Indep. Claims: 3	**3	0	x100=	\$	x200=	\$0.00
Multiple Dependent Claims Presented			+180=	\$	+360=	\$0.00
Extension Fees for ____ Month(s)				\$		\$0.00
Total:				\$	Total:	\$0.00

* If less than 20, write 20

** If less than 3, write 3

☐ Please charge my Deposit Account No. 19-0089 in the amount of \$ ____.

☐ A check in the amount of \$ ____ to cover the filing/extension fee is included.

☒ The U.S. Patent and Trademark Office is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 19-0089.

☒ Any additional filing fees required under 37 C.F.R. 1.16.

☒ Any patent application processing fees under 37 C.F.R. 1.17, including any required extension of time fees in any concurrent or future reply requiring a petition for extension of time for its timely submission (37 C.F.R. 1.136(a)(3)).

William E. Lyddane
Bruce H. Bernstein
Reg. No. 29,027

William E. Lyddane
Reg. No. 41,568

P23971.A02



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Hiroyuki KOBAYASHI

Group Art Unit: 3739

Serial No.: 10/693,883

Examiner: Philip R. Smith

Filed : October 28, 2003

For : ELECTRONIC ENDOSCOPE APPARATUS

**RESPONSE TO ELECTION REQUIREMENT
WITH TRAVERSE**

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop _____
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

In response to the Official Action of June 22, 2005 in which a three-month shortened statutory period for response was set to expire on September 22, 2005, Applicant hereby elects the species of claim 2, with traverse. Claims 1, 2 and 4-15 are considered readable on the elected species, with claims 1 and 4-15 considered to be generic.

Applicant respectfully request that each of the species be examined in the instant application, pursuant to the guidelines set forth in M.P.E.P. 803. That is, the Examiner is respectfully requested to reconsider his requirement and find that there would not appear to be a "serious burden" on the Office in also examining the claims directed toward the non-elected species, which would otherwise be withdrawn from the

consideration if the restriction requirement is maintained.

In M.P.E.P. Chapter 800, the Office sets forth its policy by which Examiners are guided in requiring restriction under 35 U.S.C.121. In Chapter 803 it is stated that "[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."

Applicant respectfully submits, that in spite of the Examiner's election requirement, the non-elected claim should be examined in the instant application for the following reasons. It would appear that the search for the inventions identified by the Examiner would be coextensive, or at least significantly overlap. That is, if the Examiner would perform a search for the elected species of claim 2, there would not appear to be a serious burden in continuing the examination of the other species, especially since all claims are directed toward an electronic endoscope apparatus having a video-scope with an image sensor and a video-processor, including a light source that radiates light for illuminating a subject, a pixel luminance detector that detects a luminance level of each pixel in a plurality of pixels, that forms a subject image displayed on a display, in accordance with image-pixel signals read from the image sensor, a division setter that divides the subject image into a plurality of blocks composed of given pixels, an average block luminance calculator that calculates a plurality of average block-luminance-levels, each of which indicates a substantial average-luminance-level of the corresponding block, the average block-luminance-levels being calculated from

P23971.A02

a plurality of luminance levels of pixels arranged in the corresponding block, a peak-luminance determiner that compares the average block-luminance-levels with each other to determine a substantially maximum average block-luminance-level from the plurality of average block-luminance-levels as a peak luminance level, a representative luminance calculator that calculates a representative luminance level indicating a brightness of the subject image, and a brightness adjuster that adjusts the brightness of the subject image in accordance with the representative luminance level.

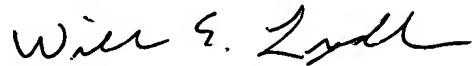
Because the search of all of the identified species would be substantially coextensive, there would be no serious burden on the Examiner to examine all the claims of the present application. For this reason, and consistent with the office policy as set forth in M.P.E.P. 803, Applicant respectfully requests that the Examiner reconsider and withdraw the election requirement.

For the foregoing reasons, the restriction requirement in this application is believed to be improper and it is respectfully submitted that it be reconsidered and withdrawn.

P23971.A02

Should there be any questions concerning this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,
Eui Yeop CHUNG



Bruce H. Bernstein
Reg. No. 29,027

William E. Lyddane
Reg. No. 41,568

July 22, 2005
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-119